

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEBRA A. WALTER,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:04-CV-325

Hon. Richard Alan Enslen

JUDGMENT

This matter is before the Court to review Defendant Jo Anne B. Barnhart's Objections to United States Magistrate Judge Ellen S. Carmody's Report and Recommendation of May 24, 2005. Plaintiff Debra A. Walter has opposed the Objections. The Court reviews the Objections, the Report and pertinent parts of the record *de novo*. Oral argument is unnecessary in this case.

Upon *de novo* review, the Court finds that the Objections should be denied and the Report adopted. Defendant's Objections are timely considering the timing rules of Federal Rule of Civil Procedure 6(a). Notwithstanding, Plaintiff is correct that the substance of Defendant's Objections does not warrant modification of the Report. Even if the jobs of "surveillance monitor" and "order clerk" are unskilled positions in light of the specific vocational preparation scoring contained in the *Dictionary of Occupational Titles*, the supporting vocational testimony and findings require remand under sentence four of 42 U.S.C. § 405(g). *See Newkirk v. Shalala*, 25 F.3d 316, 317-18 (6th Cir. 1994) (explaining sentence four remands). In particular, remand is necessary to pose proper hypothetical questions to the vocational expert which fully credit the extent of Plaintiff's non-physical limitations and to make additional findings in light of such testimony.

THEREFORE, IT IS HEREBY ORDERED that Defendant Jo Anne B. Barnhart's Objections (Dkt. No. 15) are **DENIED**, the Report and Recommendation (Dkt. No. 13) is **ADOPTED**, the determination of the Commissioner of Social Security is **REVERSED** and this matter **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

DATED in Kalamazoo, MI:
July 21, 2005

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
UNITED STATES DISTRICT JUDGE